



Senate

General Assembly

File No. 382

February Session, 2008

Substitute Senate Bill No. 585

Senate, April 1, 2008

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING UNDERGROUND STORAGE TANKS,
DEMONSTRATION PROJECTS, BENEFICIAL USE OF SOLID WASTE,
AQUACULTURE STRUCTURES, SAND REMOVAL, TIPPING FEES,
THE SOLID WASTE ACCOUNT AND THE COASTAL MANAGEMENT
ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-449o of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) As used in this section:

4 (1) "Double-walled underground storage tank" means an
5 underground storage tank that is listed by Underwriters Laboratories,
6 Incorporated and that is constructed using two complete shells to
7 provide both primary and secondary containment, and having a
8 continuous three-hundred-sixty degree interstitial space between the
9 two shells which interstitial space shall be continuously monitored
10 using inert gas or liquid, vacuum monitoring, electronic monitoring,
11 mechanical monitoring or any other monitoring method approved in

12 writing by the commissioner before being installed or used;

13 (2) "Double-walled underground storage tank system" means one or
14 more double-walled underground storage tanks connected by double-
15 walled piping and utilizing double-walled piping to connect the
16 underground storage tank to any associated equipment;

17 (3) "Hazardous substance" means a substance defined in Section
18 101(14) of the Comprehensive Environmental Response,
19 Compensation and Liability Act of 1980, but does not include any
20 substance regulated as a hazardous waste under subsection (c) of
21 section 22a-449 of the 2008 supplement to the general statutes or any
22 mixture of such substances and petroleum;

23 (4) "Petroleum" means crude oil, crude oil fractions and refined
24 petroleum fractions, including gasoline, kerosene, heating oils, any
25 biofuel blend and diesel fuels;

26 (5) "Underground storage tank" means a tank or combination of
27 tanks, including underground pipes connected thereto, used to contain
28 an accumulation of petroleum or hazardous substances, whose volume
29 is ten per cent or more beneath the surface of the ground, including the
30 volume of underground pipes connected thereto; [and]

31 (6) "Underground storage tank system" means an underground
32 storage tank and any associated ancillary equipment and containment
33 system, including, but not limited to, satellite piping, connected piping
34 and all containment sumps, including, but not limited to, new under-
35 dispenser containment sumps and new piping containment sumps;

36 (7) "Under-dispenser containment sump" means a containment
37 sump located underneath a dispenser to prevent liquids that may
38 accumulate in such sump from leaving the sump and from reaching
39 soil, groundwater or surface waters;

40 (8) "New under-dispenser containment sump" means an under-
41 dispenser containment sump that (A) allows for visual inspection and
42 immediate access to the components of such sump and any

43 components contained therein, (B) contains leak detection equipment,
44 such as a sensor, that at all times is capable of detecting any liquid that
45 may accumulate in such containment sump, including, but not limited
46 to, leaks from the dispenser, and (C) contains an alarm or other device
47 that notifies the owner or operator immediately whenever a liquid
48 accumulates in the containment sump;

49 (9) "New piping containment sump" means a sump housing a
50 turbine pump or piping that distributes petroleum or regulated
51 substances and that (A) prevents liquids that may accumulate in such
52 sump from leaving the containment sump and reaching soil,
53 groundwater or surface waters, (B) allows for immediate visual
54 inspection and access to the components of such sump and the
55 components contained therein, (C) contains leak detection equipment,
56 such as a sensor, that at all times is capable of detecting any liquid that
57 may accumulate in such containment sump, including, but not limited
58 to, leaks from the turbine pump or piping, and (D) contains an alarm
59 or other device that notifies the owner or operator immediately
60 whenever a liquid accumulates in the containment sump;

61 (10) "Operator" means any person or municipality in control of, or
62 having responsibility for, the daily operation of an underground
63 storage tank system; and

64 (11) "Owner" means the person or municipality in possession of or
65 having legal ownership of an underground storage tank system.

66 (b) No person or municipality shall install, on or after October 1,
67 2003, an underground storage tank system and no person or
68 municipality shall operate or use, an underground storage tank system
69 installed after October 1, 2003, unless such underground storage tank
70 system is a double-walled underground storage tank system. [This
71 section shall not apply to a residential underground storage tank
72 system, as defined in section 22a-449a.]

73 (c) On and after January 1, 2009, no person or municipality shall
74 install, operate or use an underground storage tank system installed

75 after January 1, 2009, unless such underground storage tank system is
76 equipped with a new under-dispenser containment sump. On and
77 after January 1, 2009, no person or municipality shall replace a piping
78 containment sump or operate or use an underground storage tank
79 system with a piping containment sump replaced after January 1, 2009,
80 unless the replaced piping containment sump is a new piping
81 containment sump.

82 (d) On and after January 1, 2009, no person or municipality shall
83 replace: (1) An under-dispenser containment sump unless the replaced
84 under-dispenser containment sump is a new under-dispenser
85 containment sump; or (2) twenty-five per cent or more of the piping
86 associated with an underground storage tank system, unless a new
87 under-dispenser containment sump has been installed for each
88 dispenser associated with such underground storage tank system. No
89 person or municipality shall operate or use an underground storage
90 tank system with a replaced under-dispenser containment sump, or of
91 which twenty-five per cent or more of the piping associated with such
92 system has been replaced, unless a new under-dispenser containment
93 sump has been installed.

94 (e) On and after January 1, 2009, no person or municipality shall
95 replace: (1) A dispenser and more than fifty per cent of any transitional
96 component that is physically located directly beneath the dispenser,
97 such as a flex-joint or flexible piping, unless a new under-dispenser
98 containment sump has been installed for such dispenser; or (2) twenty-
99 five per cent or more of the dispensers at a facility, unless a new
100 under-dispenser containment sump has been installed for each
101 dispenser at the facility, except that the requirements of this
102 subdivision shall not apply to a dispenser that is replaced due to
103 damage resulting from an accident or vandalism. No person or
104 municipality shall operate or use any dispenser in violation of this
105 subsection.

106 (f) (1) Prior to using or operating an underground storage tank
107 system installed after January 1, 2009, the owner or operator of any

108 such underground storage tank system shall conduct tests that
109 demonstrate that there is no release or loss of any liquids from any
110 part of the double-walled underground storage tank system, including
111 a demonstration that any liquid that accumulates in a new piping
112 containment sump and a new under-dispenser containment sump will
113 not leave such sump or be released into the environment. The owner
114 or operator shall perform such test upon installation, six months after
115 installation, and every five years thereafter. On or before January 1,
116 2012, the Commissioner of Environmental Protection may review the
117 results of all of the tests performed six months after installation, and
118 such tests' effectiveness in detecting leaks.

119 (2) The owner or operator of any underground storage tank system
120 repairing a piping containment sump or under-dispenser containment
121 sump installed after January 1, 2009, prior to using or operating such
122 system, shall conduct a test that demonstrates that after such repairs,
123 the repaired piping containment sump or under-dispenser
124 containment sump meets the requirements of a new piping
125 containment sump or new under-dispenser containment sump.

126 (3) The tests required by subdivisions (1) and (2) of this subsection
127 shall be conducted in accordance with the manufacturer's guidelines or
128 standards or another test method approved by the Commissioner of
129 Environmental Protection. The test shall be performed by a person that
130 has the expertise to perform and document the results of such testing.
131 The owner or operator of an underground storage tank system shall
132 maintain the results of all testing to demonstrate compliance with the
133 requirements of this subsection in a manner prescribed by the
134 commissioner. The owner or operator shall provide such results to the
135 Commissioner of Environmental Protection upon request.

136 (g) If an alarm, sensor or similar device in a new under-dispenser
137 containment sump or new piping containment sump indicates that
138 liquid is present in such sump, the owner or operator of such sump
139 shall: (1) Immediately investigate the cause for the presence of liquids
140 in such sump and take corrective measures as appropriate; (2) remove

141 all petroleum from such sump not later than twenty-four hours after
142 any alarm or similar device indicates that liquids are present in such
143 sump; and (3) remove all other liquids, including, but not limited to,
144 water, from such sump not later than seventy-two hours after any
145 alarm or similar device indicates that liquids are present in such sump.

146 (h) No person, including, but not limited to, an owner or operator,
147 shall remove, disable or otherwise render inoperable any sensor in a
148 new under-dispenser containment sump or new piping containment
149 sump or any alarm or other device used to indicate whether liquids are
150 present in any such sump. No owner or operator shall dispense
151 petroleum or a hazardous substance from an underground storage
152 tank system equipped with a new under-dispenser containment sump
153 or a new piping containment sump if any sensor in such sump, or any
154 alarm or other device used to indicate whether liquids are present in
155 any such sump, is removed, disabled or otherwise inoperable.

156 (i) This section shall not apply to a residential underground storage
157 tank system, as defined in section 22a-449a, and the requirements of
158 this section concerning an under-dispenser containment sump shall
159 not apply to an underground storage tank system that does not have a
160 dispenser.

161 Sec. 2. Section 22a-208a of the general statutes is amended by adding
162 subsection (j) as follows (*Effective October 1, 2008*):

163 (NEW) (j) The Commissioner of Environmental Protection may
164 issue an approval for a demonstration project for any activity
165 regulated by the commissioner under this chapter provided the
166 commissioner determines that such demonstration project (1) is
167 necessary to research, develop or promote methods and technologies
168 of solid waste management which are consistent with the goals of the
169 state solid waste management plan; (2) does not pose a significant risk
170 to human health or the environment; and (3) is not inconsistent with
171 the federal Water Pollution Control Act, the federal Rivers and
172 Harbors Act, the federal Clean Air Act or the federal Resource
173 Conservation and Recovery Act. An application for such approval

174 shall be on a form prescribed by the commissioner, be accompanied by
175 a fee of one thousand dollars and shall provide such information as the
176 commissioner deems necessary. Any person applying for such
177 approval shall not commence the project prior to the commissioner's
178 written approval. The commissioner may impose conditions upon
179 such approval as deemed necessary to adequately protect human
180 health and the environment or to ensure project success and such
181 approval shall be valid for a period of not more than two years. The
182 commissioner may renew such approval provided the total period of
183 approval does not exceed five years. The commissioner may order
184 summary suspension of any such approval in accordance with
185 subsection (c) of section 4-182. Notwithstanding the renewal process,
186 any person may seek, or the commissioner may require, that the
187 project obtain a general or individual permit pursuant to this chapter.

188 Sec. 3. Subsection (d) of section 22a-361 of the general statutes is
189 repealed and the following is substituted in lieu thereof (*Effective*
190 *October 1, 2008*):

191 (d) (1) The Commissioner of Environmental Protection may issue a
192 general permit for any minor activity regulated under sections 22a-28
193 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the
194 commissioner determines that such activity would (A) cause minimal
195 environmental effects when conducted separately, (B) cause only
196 minimal cumulative environmental effects, (C) not be inconsistent with
197 the considerations and the public policy set forth in sections 22a-28 to
198 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent
199 with the policies of the Coastal Management Act, and (E) constitute an
200 acceptable encroachment into public lands and waters. Such activities
201 may include routine minor maintenance and routine minor repair of
202 existing structures, fill, obstructions, encroachments or excavations;
203 substantial maintenance consisting of rebuilding, reconstructing or
204 reestablishing to a preexisting condition and dimension any structure,
205 fill, obstruction, encroachment or excavation; maintenance dredging of
206 areas which have been dredged and continuously maintained as
207 serviceable; activities allowed pursuant to a perimeter permit; the

208 removal of structures, derelict vessels, debris, rubbish or similar
209 discarded material or unauthorized fill material; minor alterations or
210 amendments to authorized activities consistent with the authorization
211 for such activities; activities which have been required or allowed by
212 an order of the commissioner; open water marsh management by or
213 under the supervision of the Department of Public Health or
214 Department of Environmental Protection; conservation activities of or
215 under the supervision or direction of the Department of
216 Environmental Protection; construction of individual residential docks
217 which do not create littoral or riparian conflicts, navigational
218 interference, or adverse impacts to coastal resources as defined by
219 section 22a-93, which are not located in tidal wetlands as defined by
220 section 22a-29 and which extend no further than forty feet waterward
221 of mean high water or to a depth of minus four feet mean low water,
222 whichever point is more landward; installation of scientific measuring
223 or monitoring devices; survey activities including excavation of test
224 pits and core sampling and driving of test pilings; construction of
225 utility lines; aquacultural activities; and installation and removal of
226 small seasonal structures including floats and moorings. Any person
227 conducting an activity for which a general permit has been issued shall
228 not be required to obtain an individual permit or certificate under any
229 other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-
230 359 to 22a-363f, inclusive, for that activity except as provided in
231 subdivision (3) of this subsection. A general permit shall clearly define
232 the activity covered thereby and may include such conditions and
233 requirements as the commissioner deems appropriate, including, but
234 not limited to, construction timing, methodologies and durations,
235 resource protection practices, management practices, and verification
236 and reporting requirements. The general permit may require any
237 person proposing to conduct any activity under the general permit to
238 register such activity, including obtaining approval from the
239 commissioner, before the general permit becomes effective as to such
240 activity. Registrations and applications for approval under the general
241 permit shall be submitted on forms prescribed by the commissioner.
242 Any approval by the commissioner under a general permit may

243 include conditions specific to the proposed activity to ensure
244 consistency with the requirements for issuance of the general permit.
245 The commissioner shall prepare, and annually amend, a list of holders
246 of general permits under this section, which list shall be made
247 available to the public.

248 (2) Notwithstanding any other procedures specified in sections 22a-
249 28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any
250 regulations adopted thereunder, and chapter 54, the commissioner
251 may issue a general permit in accordance with the following
252 procedures: (A) The commissioner shall publish in a newspaper
253 having a substantial circulation in the affected area or areas notice of
254 intent to issue a general permit; (B) the commissioner shall allow a
255 comment period of thirty days following publication of such notice
256 during which interested persons may submit written comments
257 concerning the permit to the commissioner and the commissioner shall
258 hold a public hearing if, within said comment period, he receives a
259 petition signed by at least twenty-five persons; (C) the commissioner
260 may not issue the general permit until after the comment period; (D)
261 the commissioner shall publish notice of any permit issued in a
262 newspaper having substantial circulation in the affected area or areas;
263 and (E) summary suspension may be ordered in accordance with
264 subsection (c) of section 4-182. Any person may request that the
265 commissioner issue, modify or revoke a general permit in accordance
266 with this subsection.

267 (3) Subsequent to the issuance of a general permit, the commissioner
268 may require any person whose activity is or may be covered by the
269 general permit to apply for and obtain an individual permit or
270 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,
271 or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the
272 activities covered by the general permit, if the commissioner
273 determines that an individual permit is necessary to assure consistency
274 with purposes and policies of such sections, and the Coastal
275 Management Act. The commissioner may require an individual permit
276 under this subdivision in cases including, but not limited to, the

277 following: (A) The permittee is not in compliance with the conditions
278 of the general permit; (B) an individual permit or certificate is
279 appropriate because of circumstances specific to the site; (C)
280 circumstances have changed since the time the general permit was
281 issued so that the permitted activity is no longer acceptable under the
282 general permit; or (D) a change has occurred in relevant law. The
283 commissioner may require an individual permit or certificate under
284 this section only if the affected person has been notified in writing that
285 an individual permit or certificate is required. The notice shall include
286 a brief statement of the reasons for the decision.

287 (4) The commissioner may adopt regulations, in accordance with the
288 provisions of chapter 54, to carry out the purposes of this section.

289 [(5) Notwithstanding any provision of sections 22a-359 to 22a-363f,
290 inclusive, pending issuance of a general permit for aquaculture
291 activities by the commissioner in accordance with this section, no
292 permit or certificate shall be required for the placement, maintenance
293 or removal of (A) individual structures used for aquaculture, as
294 defined in section 22-416, including, but not limited to, cages or bags,
295 which are located on designated state or municipal shellfish beds
296 which structures create no adverse impacts on coastal resources or
297 navigation over their location or (B) any buoys used to mark such
298 structures. Upon issuance of a general permit for aquaculture activities
299 in accordance with this section, any aquaculture activities shall comply
300 with the terms of such general permit or other applicable provisions of
301 sections 22a-359 to 22a-363f, inclusive.]

302 Sec. 4. Subsection (e) of section 22a-361 of the general statutes is
303 repealed and the following is substituted in lieu thereof (*Effective*
304 *October 1, 2008*):

305 (e) No person, firm or corporation, public, municipal or private,
306 who removes sand, gravel or other material lying waterward of the
307 mean high water mark of the tidal, coastal or navigable waters of the
308 state pursuant to a permit issued under this section on or after October
309 1, 1996, shall make any beneficial or commercial use of such sand,

310 gravel or other material except upon payment to the state of a fee of
311 four dollars per cubic yard of such sand, gravel and other materials,
312 except that the commissioner may waive such fee if the sand, gravel or
313 other materials have been decontaminated or processed to meet
314 applicable environmental standards for reuse. Such payment shall be
315 made at times and under conditions specified by the commissioner in
316 such permit. No fee shall be assessed for (1) the performance of such
317 activities on land which is not owned by the state, (2) the use of sand,
318 gravel or other materials for beach restoration projects, or (3) ultimate
319 disposal of such sand, gravel or other materials which does not result
320 in an economic benefit to any person. For the purposes of this section,
321 "beneficial or commercial use" includes, but is not limited to, sale or
322 use of sand, gravel or other materials for construction, aggregate, fill or
323 landscaping.

324 Sec. 5. Section 22a-232 of the 2008 supplement to the general statutes
325 is repealed and the following is substituted in lieu thereof (*Effective*
326 *October 1, 2008*):

327 (a) There shall be paid to the Commissioner of Revenue Services by
328 the owner of any resources recovery facility one dollar per ton of solid
329 waste processed at the facility beginning on the date of
330 commencement of commercial operation of the facility for calendar
331 quarters commencing on or after October 1, 1987, until September 30,
332 2003. For calendar quarters commencing on and after October 1, 2003,
333 the owner of any resources recovery facility shall pay to the
334 Commissioner of Revenue Services one dollar and fifty cents per ton of
335 solid waste processed at such facility.

336 **(b) On and after October 1, 2008, each owner of a solid waste**
337 **facility, as defined in section 22a-207, shall pay to the Commissioner of**
338 **Revenue Services one dollar and fifty cents per ton of all solid waste**
339 **processed or disposed of at such facility or transferred by such owner**
340 **to any out-of-state facility. Any person who transports or transfers**
341 **solid waste to any out-of-state facility for processing or disposal shall**
342 **pay to the Commissioner of Revenue Services one dollar and fifty cents**

343 per ton of all solid waste transferred, processed or disposed of at such
344 facility. No fee shall be due for any solid waste processed at a resource
345 recovery facility provided such facility is in compliance with
346 subsection (a) of this section. For the purposes of this subsection, "solid
347 waste" means solid waste from residential, commercial and industrial
348 sources, but does not include solid waste defined as hazardous waste
349 in regulations adopted in accordance with section 22a-449, biomedical
350 waste and any materials recycled in accordance with section 22a-241b.

351 [(b)] (c) Each owner of a resources recovery facility or solid waste
352 facility subject to the assessment as provided by this section shall
353 submit a return quarterly to the Commissioner of Revenue Services,
354 applicable with respect to the calendar quarter beginning October 1,
355 1987, and each calendar quarter thereafter, on or before the last day of
356 the month immediately following the end of each such calendar
357 quarter, on a form prescribed by the commissioner, together with
358 payment of the quarterly assessment determined and payable in
359 accordance with the provisions of [subsection] subsections (a) and (b)
360 of this section.

361 [(c)] (d) Whenever such assessment is not paid when due, a penalty
362 of ten per cent of the amount due or fifty dollars, whichever is greater,
363 shall be imposed, and such assessment shall bear interest at the rate of
364 one per cent per month or fraction thereof until the same is paid. The
365 Commissioner of Revenue Services shall cause copies of a form
366 prescribed for submitting returns as required under this section to be
367 distributed throughout the state. Failure to receive such form shall not
368 be construed to relieve anyone subject to assessment under this section
369 from the obligations of submitting a return, together with payment of
370 such assessment within the time required.

371 [(d)] (e) Any person or municipality liable for the service fee for
372 solid waste delivered to a facility whose owner is subject to the
373 assessment imposed by subsection (a) or (b) of this section shall
374 reimburse the owner for any assessment paid for the solid waste
375 delivered by such person or municipality. The assessment shall be a

376 debt from the person or municipality responsible for paying such
377 service fee to the owner.

378 [(e)] (f) The provisions of sections 12-548 to 12-554, inclusive, and
379 section 12-555a shall apply to the provisions of this section in the same
380 manner and with the same force and effect as if the language of said
381 sections 12-548 to 12-554, inclusive, and section 12-555a had been
382 incorporated in full in this section, except that to the extent that any
383 such provision is inconsistent with a provision in this section and
384 except that the term "tax" shall be read as "solid waste assessment".

385 Sec. 6. Section 22a-233 of the general statutes is repealed and the
386 following is substituted in lieu thereof (*Effective October 1, 2008*):

387 (a) There is established and created an account to be known as the
388 "solid waste account". The solid waste account shall be an account of
389 the Environmental Quality Fund. Notwithstanding any provision of
390 the general statutes to the contrary, any revenue collected in
391 accordance with section 22a-232 of the 2008 supplement to the general
392 statutes, as amended by this act, shall be deposited in the
393 Environmental Quality Fund and credited to the solid waste account.
394 Any balance remaining in said account at the end of any fiscal year
395 shall be carried forward in said account for the fiscal year next
396 succeeding.

397 (b) The account shall be used by the Commissioner of
398 Environmental Protection to carry out the provisions of this section,
399 [and sections] section 22a-193 [, 22a-208, 22a-237 and 22a-240a] and
400 chapter 446d, including, but not limited to, the following: (1) Pollution
401 prevention, (2) stack testing for dioxin and furan emissions, (3)
402 preoperational and postoperational testing for dioxin and furans in the
403 ambient air, soil, surface waters and biota in the area of existing or
404 proposed resources recovery facilities, (4) residue testing, (5) leachate
405 testing for dioxins and furans at resources recovery residue disposal
406 sites, (6) inspection and enforcement, (7) operator and inspector
407 training, [and] (8) promotion of state and municipal recycling, and (9)
408 staffing necessary to carry out such activities. Payments from the

409 account shall be made by the Treasurer upon authorization of the
410 commissioner.

411 (c) On or before the second Wednesday after the convening of each
412 regular session of the General Assembly, the Commissioner of
413 Environmental Protection shall submit a report to the joint standing
414 committee of the General Assembly having cognizance of matters
415 relating to the environment which sets forth, for the year ending the
416 preceding June thirtieth, the amount of income to and the expenditures
417 from the account and such other information as may be available to the
418 commissioner concerning the status of the account for the year covered
419 by the report and for future fiscal years.

420 Sec. 7. Section 22a-209f of the general statutes is repealed and the
421 following is substituted in lieu thereof (*Effective October 1, 2008*):

422 (a) The Commissioner of Environmental Protection may issue a
423 general permit for a category of processing or beneficial use of solid
424 waste when used in a manufacturing process to make a product or as
425 an effective substitute for a commercial product, provided: (1) Such
426 permit does not allow an activity for which an individual permit has
427 been issued; (2) the issuance of the general permit is not inconsistent
428 with the requirements of the federal Resource Conservation and
429 Recovery Act; (3) the solid wastes included in the category are
430 proposed for the same or substantially similar operations and have the
431 same or similar physical character and chemical composition; (4) the
432 solid wastes included in the category are proposed for the same or
433 substantially similar beneficial use or processing activities; and (5) the
434 commissioner finds that the activities in the category can be
435 adequately regulated using standardized conditions without harming
436 or presenting a threat of harm to public health and safety or the
437 environment. [The commissioner's authority to issue a general permit
438 shall not apply to the reuse of hazardous waste as defined in section
439 22a-115.] The issuance of the general permit shall be governed by
440 procedures established in subsection [(q)] (i) of section 22a-208a, as
441 amended by this act. The general permit may require any person or

442 municipality proposing to conduct any activity under a general permit
443 to register such activity on a form prescribed by the commissioner.

444 (b) (1) The commissioner may issue individual authorizations for
445 the beneficial use of solid waste in a manufacturing process to make a
446 product or as an effective substitute for a commercial product
447 provided (A) such authorization does not allow an activity for which
448 an individual or general permit has been issued, (B) such authorization
449 is not inconsistent with the requirements of the federal Resource
450 Conservation and Recovery Act (42 USC 6901 et seq.) and (C) the
451 commissioner finds that such solid waste can be reused without
452 harming or presenting a threat of harm to public health, safety or the
453 environment.

454 (2) The commissioner shall establish guidelines protective of public
455 health, safety and the environment for authorizations made in
456 accordance with this subsection and shall give public notice on the
457 Department of Environmental Protection's Internet web site of such
458 guidelines or any subsequent revision of the guidelines with an
459 opportunity for submission of written comments by interested persons
460 for a period of thirty days following the publication of the notice. The
461 commissioner shall post a response to any comments received on the
462 Department of Environmental Protection's Internet web site.

463 (3) An applicant for such authorization shall submit information on
464 forms prescribed by the commissioner and any additional information
465 required by the commissioner, accompanied by a fee of five thousand
466 dollars, except that no such fee shall be charged to a municipality.

467 (4) Notwithstanding section 22a-208 or any regulations adopted
468 pursuant to section 22a-209, the issuance or renewal of an
469 authorization under this subsection, or a modification of an
470 authorization under this subsection if such modification is sought by
471 the holder of an authorization, shall conform to the following
472 procedures: The commissioner shall publish a notice of intent to issue
473 an authorization on the Department of Environmental Protection's
474 Internet web site. Such notice shall include: (A) The name and mailing

475 address of the applicant and the address of the location of the
476 proposed activity; (B) the application number; (C) the tentative
477 decision regarding the application; (D) the type of authorization
478 sought, including a reference to the applicable statute or regulation; (E)
479 a description of the location of the proposed activity and any natural
480 resources affected thereby; (F) the name, address and telephone
481 number of any agent of the applicant from whom interested persons
482 may obtain copies of the application; (G) the length of time available
483 for submission of public comments to the commissioner; and (H) such
484 additional information as the commissioner deems necessary to
485 comply with any provision of this title or regulations adopted
486 pursuant to this title, or with the federal Clean Air Act, federal Clean
487 Water Act or federal Resource Conservation and Recovery Act. There
488 shall be a comment period of thirty days following the publication of
489 such notice during which interested persons may submit written
490 comments to the commissioner. The commissioner shall post a
491 response to any comments received on the Department of
492 Environmental Protection's Internet web site. The commissioner may
493 approve or deny such authorization based upon a review of the
494 submitted information. Any authorization issued pursuant to this
495 section shall define clearly the activity covered by such authorization
496 and may include such conditions or requirements as the commissioner
497 deems appropriate, including, but not limited to, operation and
498 maintenance requirements, management practices, reporting
499 requirements and a specified term. The commissioner may suspend or
500 revoke an authorization and may modify an authorization if such
501 modification is not sought by the holder of an authorization, in
502 accordance with the provisions of section 4-182 and the applicable
503 rules of practice adopted by the department.

504 Sec. 8. Section 22a-97 of the general statutes is repealed and the
505 following is substituted in lieu thereof (*Effective October 1, 2008*):

506 (a) The commissioner shall provide, within available
507 appropriations, technical, coordinating and research services to
508 promote the effective administration of this chapter at the federal, state

509 and local levels.

510 (b) The commissioner shall have the overall responsibility for
511 general supervision of the implementation of this chapter and shall
512 monitor and evaluate the activities of federal and state agencies and
513 the activities of municipalities to assure continuing, effective,
514 coordinated and consistent administration of the requirements and
515 purposes of this chapter.

516 [(c) The commissioner shall prepare and submit to the General
517 Assembly and the Governor, on or before December first of each year,
518 a written report summarizing the activities of the department
519 concerning the development and implementation of this chapter
520 during the previous year. Such report shall include, but not be limited
521 to: (1) The department's accomplishments and actions in achieving the
522 goals and policies of this chapter including, but not limited to,
523 coordination with other state, regional, federal and municipal
524 programs established to achieve the purposes of this chapter and
525 research programs established pursuant to subsection (a) of section
526 22a-112; (2) recommendations for any statutory or regulatory
527 amendments necessary to achieve such purposes; (3) a summary of
528 municipal and federal programs and actions which affect the coast; (4)
529 recommendations for any programs or plans to achieve such purposes;
530 (5) any aspects of the program or the chapter which are proving
531 difficult to accomplish, suggested reasons for such difficulties and
532 proposed solutions to such difficulties; (6) a summary of the
533 expenditure of federal and state funds under this chapter; and (7) a
534 request for an appropriation of funds necessary to match federal funds
535 and provide continuing financial support for the program. Such report
536 shall comply with the provisions of section 46a-78. On and after
537 October 1, 1996, the report shall be submitted to the joint standing
538 committee of the General Assembly having cognizance of matters
539 relating to the environment and, upon request, to any member of the
540 General Assembly. A summary of the report shall be submitted to each
541 member of the General Assembly if the summary is two pages or less
542 and a notification of the report shall be submitted to each member if

543 the summary is more than two pages. Submission shall be by mailing
544 the report, summary or notification to the legislative address of each
545 member of the committee or the General Assembly, as applicable.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	22a-449o
Sec. 2	<i>October 1, 2008</i>	22a-208a
Sec. 3	<i>October 1, 2008</i>	22a-361(d)
Sec. 4	<i>October 1, 2008</i>	22a-361(e)
Sec. 5	<i>October 1, 2008</i>	22a-232
Sec. 6	<i>October 1, 2008</i>	22a-233
Sec. 7	<i>October 1, 2008</i>	22a-209f
Sec. 8	<i>October 1, 2008</i>	22a-97

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Revenue Services	GF - Revenue Gain	\$1.7 million	\$2.2 million
Department of Environmental Protection	GF - Revenue Impact	Potential Minimal	Potential Minimal
Various State Agencies	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	See Below	See Below	See Below

Explanation

Section 1 could result in costs to municipalities and various state agencies of about \$2,000 to install and maintain a new or upgraded underground storage tank (UST) system. On the other hand, this cost would be much less than the potential cost of remediation, which would be significant.

sHB 5021, the revised FY 09 Appropriations Act, as favorably reported by the Appropriations Committee, carries forward up to \$300,000 under the petroleum clean-up account within the Environmental Quality Fund to contract for services to evaluate, audit, test, and repair state owned storage tanks.

There are currently about 15,000 active, in-use non-residential UST's in the state which would be subject to these provisions. The registration of residential UST's is not required by the Department of Environmental Protection (DEP), although it is estimated that there are between 70,000 to 150,000 UST's owned by residents.

Section 2 would result in a minimal revenue gain, since it establishes a \$1,000 fee per application for certain solid waste demonstration projects. This section could also result in a minimal revenue gain, since the DEP commissioner may require certain solid waste demonstration projects to obtain general or individual permits.

Section 3 removes the current requirement for a general permit for certain aquaculture activities, which would result in a minimal revenue loss. The cost of these fees varies; fees are based on water surface area occupied by the aquaculture activity in tidal, coastal, or navigable waters.

Section 4 could result in a minimal revenue loss, since this section authorizes the DEP commissioner to waive a fee if certain materials have been decontaminated or processed to meet applicable environmental standards for reuse. The cost of this fee is \$4 per cubic yard.

Section 5 would result in a General Fund revenue gain, of \$1.7 million in FY 09 and \$2.2 million in FY 10, as a result of the expanded solid waste assessment fee. These funds may be used to promote municipal and state recycling.

Section 7 would also result in a minimal amount of revenue to the General Fund, through DEP. Any applicant for the beneficial use of solid waste in a manufacturing process to make certain products is required to remit a \$5,000 fee to DEP. Municipalities, however, are exempted from this fee.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and subject to the number of permits issued or waived, and subject to the number of new or upgraded UST's.

OLR Bill Analysis**sSB 585*****AN ACT CONCERNING UNDERGROUND STORAGE TANKS, DEMONSTRATION PROJECTS, BENEFICIAL USE OF SOLID WASTE, AQUACULTURE STRUCTURES, SAND REMOVAL, TIPPING FEES, THE SOLID WASTE ACCOUNT AND THE COASTAL MANAGEMENT ACT.*****SUMMARY:**

This bill (1) requires solid waste facility owners and solid waste haulers to pay a \$1.50 per ton fee for solid waste shipped out of state; (2) requires the installation of specific equipment on commercial underground storage tank (UST) systems, and adds biofuel blends to the types of fuels to which UST system installation, operation, and use requirements apply; and (3) allows the Department of Environmental Protection (DEP) commissioner to (a) authorize beneficial uses of solid waste for which there is not an individual or general permit, (b) issue general permits for the reuse of hazardous waste, (c) license solid waste demonstration projects, and (d) waive a sand and gravel excavation fee. It repeals a law on aquaculture structures, allows the commissioner to use money from the Conservation Fund's solid waste account to promote state and municipal recycling, and eliminates a requirement that the commissioner report annually to the legislature and governor on DEP's coastal management program.

EFFECTIVE DATE: October 1, 2008

§ 5 — SOLID WASTE TRANSPORTATION FEE

The law requires owners of resource recovery facilities to pay the revenue services commissioner \$1.50 per ton for solid waste the facility processes. The bill requires, starting October 1, 2008, an owner of a solid waste facility to pay the revenue services commissioner \$1.50 per ton for solid waste (1) processed or disposed of at the facility or (2)

transferred to an out-of-state facility. It requires people transporting or transferring solid waste for processing or disposal at an out-of state facility to pay the revenue services commissioner \$1.50 per ton for the solid waste transferred, processed, or disposed of. It exempts resource recovery facilities that pay the fee under existing law. It requires people or municipalities who contract for solid waste disposal to reimburse solid waste facility owners for the fee for the solid waste they deliver, as the law already does for people and municipalities who contract with resources recovery facilities.

Each solid waste facility subject to the assessment must submit a quarterly return, along with its payment, on a Department of Revenue Services form, to the revenue services commissioner before the last day of the month immediately following the end of each calendar quarter. The law already requires resources recovery facilities to do so.

Under the bill, solid waste is solid waste from residential, commercial, and industrial sources, but not hazardous waste, biomedical waste, or recycled material.

§ 1 — UNDERGROUND STORAGE TANKS

This bill sets specific technical requirements for installing, replacing, operating, repairing, and testing commercial UST systems and their components, particularly several types of sumps, starting January 1, 2009. The bill's sump requirements apply only to USTs with dispensers.

Definitions

An under-dispenser containment sump (UDC) is located beneath a dispenser to stop liquids that may accumulate in the sump from leaving it and reaching soil, groundwater, or surface waters.

A new under-dispenser containment sump (new UDC) is an under-dispenser containment sump that (1) allows for visual inspection and immediate access to the sump and its components and (2) contains (a) leak detection equipment, and (b) an alarm or other device to alert the UST owner or operator when liquid accumulates in the sump.

A new piping containment sump houses a turbine pump or piping that distributes petroleum or regulated substances and prevents leaked liquids from reaching soil, groundwater, or surface waters. Like a new UDC, it also allows for visual inspection and immediate access to the sump and its components, and contains leak detection equipment and an alarm or other device to alert the UST owner or operator when liquid accumulates in the sump.

Under current law, a UST system means a UST and any associated ancillary equipment and containment system. The bill specifies that this equipment and system include satellite piping, connecting piping and all containment sumps, that include new UDCs and new piping containment sumps.

A UST operator is a person or municipality in control of or responsible for the daily operation of a UST system; an owner is the person or municipality having possession or legal ownership of a UST system.

Installation and Replacement Requirements

The bill prohibits a person or municipality, starting January 1, 2009, from installing, operating, or using a UST system installed after January 1, 2009 unless it is equipped with a new UDC. It prohibits, starting January 1, 2009, a person or municipality from replacing a piping containment sump, or operating or using a UST with a piping containment sump replaced after that date, unless the replacement is a new piping containment sump.

Starting January 1, 2009, the bill prohibits any person or municipality from replacing (1) a UDC, unless it is with a new UDC, or (2) 25% or more of the UST piping, unless a new UDC is installed for each UST dispenser. It prohibits, as of that date, a person or municipality from operating or using a UST system in either case unless a new UDC has been installed. Apparently in the latter case, a new UDC must be installed for each UST dispenser.

Also starting January 1 2009, the bill prohibits a person or

municipality from replacing (1) a dispenser and more than 50% of any transitional component located beneath the dispenser, unless a new UDC is installed, or (2) 25% or more of the dispensers at a facility, unless a new UDC is installed for each dispenser. It prohibits a person or municipality from operating or using a dispenser replaced in violation of the bill. This provision does not apply to dispensers replaced because of damage caused by accident or vandalism. The bill does not define facility.

Sump Tests

The bill requires owners or operators of UST systems installed after January 1, 2009 to conduct tests to show there is no release from the UST system. The owner or operator must show that any liquid that accumulates in a new piping containment sump and a new UDC will be properly contained. He or she must conduct the test (1) upon installing the system, (2) six months later, and (3) every five years thereafter. It is not clear if the five-year period runs from the date of installation or the six month test. The DEP commissioner, by January 1, 2012, may review all the six month test results, and the tests' effectiveness in detecting leaks.

A UST owner or operator repairing a UDC or piping containment sump installed after January 1, 2009 must conduct a test to show the repaired sump or piping containment sump meets the new equipment's requirements before using or operating the system.

These tests must be conducted according to the manufacturer's guidelines or standards, or another method the commissioner approves. The test must be performed by someone with the expertise to conduct and document the test results. The owner or operator must maintain the test results in a manner the commissioner prescribes and provide them to her at her request.

Leak Detection and Removal

If an alarm, sensor, or similar device in a new UDC or new piping containment sump indicates the presence of a liquid, the sump's owner

or operator (apparently the UST owner or operator) must (1) immediately investigate the cause and take the appropriate corrective measures; (2) remove any petroleum from the sump within 24 hours of the alarm; and (3) remove all other liquids, including water, within 72 hours of the alarm.

The bill bars anyone from removing, disabling, or otherwise rendering inoperable any sensor in a new sump or new piping sump, or any alarm or other device that indicates whether liquids are present in the sump. No owner or operator may dispense petroleum or a hazardous substance from a UST system equipped with a new UDC or new piping containment sump if a sensor, or any alarm or other device, has been removed, disabled, or made inoperable.

§ 7 — BENEFICIAL USE AUTHORIZATION

Under current law, the DEP commissioner may not issue a general permit for the reuse of hazardous waste (see BACKGROUND). The bill allows her to do so.

It also allows her to issue an authorization for the processing or beneficial use of solid waste in manufacturing, or as an effective substitute for a commercial product, if the authorization (1) does not allow an activity for which DEP has issued an individual or general permit and (2) is consistent with the requirements of the federal Resource Conservation and Recovery Act. The commissioner must also find that the solid waste can be reused without harming or presenting a threat of harm to public health, safety, or the environment.

The commissioner must establish guidelines to protect public health, safety, and the environment for these authorizations, and provide notice to the public on the DEP's website of the guidelines and subsequent revisions. She must provide interested people the opportunity to submit written comments for 30 days after publishing the notice. She must post a response on the website to any comments she receives.

A person seeking authorization must supply the information the

commissioner requires on a DEP form, accompanied by a \$5,000 fee. The bill exempts municipalities from the fee.

Procedures

The bill requires that certain procedures apply to the (1) issuance or renewal of an authorization or (2) modification of an authorization, if the modification is requested by the authorization holder.

The commissioner must publish, on the DEP website, notice of her intention to issue an authorization. This apparently also applies to authorization renewals or modifications. The notice must include:

1. the applicant's name and mailing address;
2. the address of the proposed activity's location;
3. the application number;
4. the tentative decision on the application;
5. the type of authorization sought, referring to the applicable law or regulation;
6. a description of the location of the proposed activity and any affected natural resources;
7. the name, address, and telephone number of anyone representing the applicant from whom interested people may obtain copies of the application;
8. the length of time available for the public to submit comments to the commissioner;
9. any additional information the commissioner believes necessary to comply with applicable state or federal law.

There must be a 30-day written public comment period following publication of the notice. The commissioner must post on the DEP website her response to any comment received. She may approve or

deny the authorization after reviewing the submitted information. Any authorization she issues must clearly define the activity it covers, and may include conditions or requirements the commissioner believes appropriate, including (1) operating and maintenance requirements, (2) management practices, (3) reporting requirements, and (4) a specified term.

The commissioner may suspend or revoke an authorization. She may modify an authorization, according to the Uniform Administrative Procedures Act and DEP's rules of practice, if the authorization holder does not seek modification.

§ 2 — SOLID WASTE DEMONSTRATION PROJECTS

The bill allows the commissioner to approve a solid waste demonstration project upon finding it (1) is necessary to research, develop, or promote methods and technologies of solid waste management consistent with the goals of the state's solid waste management plan; (2) does not pose a significant human health or environmental risk; and (3) is consistent with the federal Water Pollution Control, Rivers and Harbors, Clean Air, and Resource Conservation and Recovery Acts.

People seeking such an approval must (1) apply on a form the commissioner prescribes, (2) provide the information the commissioner deems necessary, and (3) pay a \$ 1,000 application fee. They cannot start the project without the commissioner's written approval.

The commissioner may impose conditions on the approval to protect human health and the environment or to ensure a project's success. An approval is valid for two years, but the commissioner may renew it, apparently for an additional three years. The commissioner may suspend the approval according to law. Under the bill, anyone may seek, or the commissioner may require, that a demonstration project also obtain a solid waste permit.

§ 3 — AQUACULTURE PERMITS

The bill repeals a law exempting the placement, maintenance, or removal of certain aquaculture structures and marking buoys from DEP permit or certificate requirements until DEP issues a general permit. The Agriculture Department regulates these aquaculture structures and buoys under a superseding law, which is unaffected by this bill (see BACKGROUND).

§ 4 — SAND AND GRAVEL REMOVAL

By law, anyone who removes sand, gravel, or other material waterward of the mean high water mark of the state's tidal, coastal, or navigable waters for sale or use in construction, aggregate, fill, or landscaping must pay the state \$ 4 per cubic yard. The bill allows the commissioner to waive the fee if the sand, gravel, or other material used for such purposes has been decontaminated or processed to meet applicable environmental standards for reuse.

BACKGROUND

Beneficial Use

The use or reuse of processed municipal waste for a purpose that does not harm or threaten public health, safety, welfare, or the environment.

Solid Waste Facility

A solid waste facility is a solid waste disposal area, volume reduction plant, transfer station, wood-burning facility or biomedical waste treatment facility (CGS § 22a-207(4)).

Solid Waste

Solid waste is unwanted or discarded solid, liquid, semisolid, or contained gaseous material, including demolition debris, material burned or otherwise processed at a resources recovery facility or incinerator, material processed at a recycling facility, and sludges or other residue from a water pollution abatement facility, water supply treatment plant, or air pollution control facility (CGS § 22a-207(3)).

Agriculture Shellfish Permitting

By law, the Agriculture Department has exclusive authority to grant or deny aquaculture permits, except in matters specifically concerning water discharges from aquaculture operations, which require DEP approval (CGS § 22-11h).

Federal Environmental Laws

The Water Pollution Control Act (33 USC 1251), Rivers and Harbors Act (33 USC 403), and Clean Air Act (42 USC 7401) regulate the discharge of pollutants; the construction of bridges, dams, and dikes; and air pollution, respectively. The Resource Conservation and Recovery Act (RCRA) (42 USC 6901) is the primary federal law governing the disposal of solid and hazardous waste.

Hazardous Waste

By law, hazardous waste is waste that may pose a present or potential human health or environmental hazard when improperly disposed of, treated, stored, transported or otherwise managed, including (1) hazardous waste identified under § 3001 of RCRA, (2) hazardous waste identified in DEP regulation, and (3) PCBs in concentrations greater than 50 parts per million. It does not mean by-product material, source material, or special nuclear material, as defined by law, or scrap tires (CGS § 22a-115(1)).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/14/2008)